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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,388	12/10/2003	Ramachandra Divakaruni	FIS920030274	1387
23550	7590	01/20/2006	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC			FULK, STEVEN J	
75 STATE STREET			ART UNIT	
14TH FL			PAPER NUMBER	
ALBANY, NY 12207			2891	

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/707,388

Applicant(s)

DIVAKARUNI ET AL.

Examiner

Steven J. Fulk

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

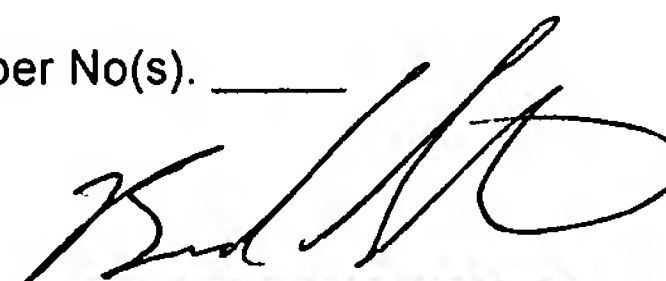
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet..
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


BRADLEY K. SMITH
PRIMARY EXAMINER

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed January 9, 2006 have been fully considered but they are not persuasive.

a. Applicant argues that Wolf does not teach using a silicide section positioned in one of a plurality of BEOL layers, but rather only as a local interconnect to silicon. This argument is not persuasive because Wolf defines the use of the silicide materials in various applications such as interconnections, ohmic contacts (to silicon), vias, and contact barriers (vol. I, page 400). As with conventional terminology in the art, the reference separately defines silicon contacts from interconnects, where interconnects are used for BEOL layers.

b. Applicant argues that Wolf only discloses using a silicide material for interconnects and not for a resistor application. This argument is not persuasive. Wolf teaches the resistivities of the silicide interconnect are equivalent to the silicide resistivities claimed by the applicant (vol. II, page 146), and thus the structural limitations of the silicide section are anticipated by Wolf. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ 2d 1647 (1987).

c. Applicant argues that Wolf's disclosure of the silicidation temperature of the metals does not suggest anything regarding a silicidation temperature

that is less than a damaging temperature of a plurality of BEOL layers. This argument is not persuasive because the silicidation temperatures that result in the desired resistivity are defined in applicant's specification as 600 °C or less (spec, paragraph 20). Thus, the property of the silicide having a silicidation temperature less than a damaging temperature of a plurality of BEOL layers is anticipated by Wolf (vol. II, page 146; vol. I, page 387,400).

Applicant also argues that the absolute temperature value of 600 °C or less is not equivalent to the relative temperature of "less than a damaging temperature of the plurality of BEOL layers" as claimed in the invention, and that the temperatures provided in the specification are illustrative examples of annealing temperatures but do not define a damaging temperature of a plurality of layers. If this is the case, the phrase "less than a damaging temperature of the plurality of BEOL layers" is not defined in the specification. Issues of enablement under U.S.C. 112 1st Paragraph would then arise because the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains to make the invention, as well as issues under U.S.C. 112 2nd Paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention and for the use of relative terminology.

d. Applicant argues that there is no suggestion to combine the references. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to

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produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the knowledge that silicides are used in BEOL layers and have resistive properties is both generally available to one of ordinary skill in the art and taught by Wolf 1986 & Wolf 1990.

e. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, the knowledge of the use of silicide resistors in semiconductor devices and the material properties of the silicides used were within the level of ordinary skill at the time the claimed invention was made.

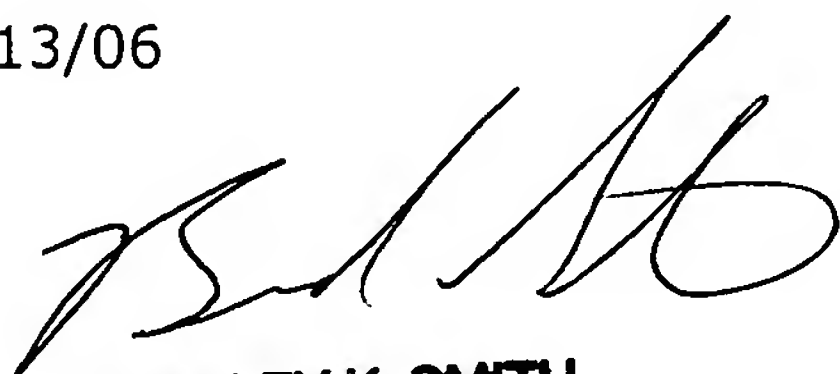
Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Fulk whose telephone number is (571) 272-8323. The examiner can normally be reached on Monday through Friday, 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Baumeister can be reached on (571) 272-1722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sjf
01/13/06



BRADLEY K. SMITH
PRIMARY EXAMINER